

TITLE 329 SOLID WASTE MANAGEMENT BOARD

#06-70 (SWMB)

SUMMARY/RESPONSE TO COMMENTS RECEIVED FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from Jan 14, 2009, through February 13, 2009, on IDEM's draft rule language for amendments to solid waste processing facility rules at 329 IAC 11. Comments were received from the following:

Joseph Walsh, Covanta Energy

Comment: Proposed 329 IAC 11-2-19.5 Recommend adding a new item (9) A Facility Modifications as required by other enforceable conditions of applicable federal or Indiana permits@. Under this revision, facility modification mandated by an IDEM-issued air quality or wastewater permit would not also require a minor/major Solid Waste Permit modification. This would eliminate potentially duplicative permitting efforts. (Walsh)

Response: Modifications required by other conditions of applicable federal or Indiana permits may include significant enough changes that a minor or major modification is required under the solid waste rules. Accordingly, automatic approval of any solid waste permit modification required by another permit as an insignificant modification cannot be included in the definition of an insignificant modification, since an insignificant modification may not be appropriate in every case.

This could require double permitting. According to the First Notice of Rulemaking for this rule, IDEM is working on revisions to the incinerator rule at 329 IAC 11 that may streamline the permit process for the incinerators.

No changes were made.

Comment: Proposed 329 IAC 11-2-21.1; Major Modification The term A major piece of equipment@ in item (6) is highly subjective and could lead to conflicting interpretations. In addition, this item may be in conflict with item (1) which references capacity increases. For clarification purposes, recommend that item (6) be deleted and that item (1) be modified as follows: A Any increase in a permitted solid waste processing facility (including addition of equipment) that would increase the facility's permitted capacity to process solid waste by more than ten percent (10%). (Walsh)

Response: IDEM agrees and will clarify item (1) by adding, "that increases the facility's permitted capacity to process solid waste by more than 10% (ten percent)." This should be consistent.

Comment: Proposed 329 IAC 11-2-21.7 (Municipal Solid Waste) This proposed definition appears to create a conflict with the definition of A solid waste@ as per 329 IAC 11-2-39 and, by reference, 329 IAC 10-2-174. 329 IAC 10-2-174 lists examples of A solid waste@, including industrial process wastes and construction/demolition wastes. These examples are specifically excluded as MSW under the proposed 21.7(c). The exclusion of construction demolition wastes

is overly broad. Such wastes can be incidental to typical wastes generated by residential and commercial establishments and should not be entirely excluded from the definition of MSW. Recommend that the exclusion of construction/demolition waste be modified as follows:
ASec.21.7(c)(1) Construction/demolition waste (except as an incidental component of paragraph (b) above)@. (Walsh)

Response: The definition of “municipal solid waste (MSW)” is consistent with 329 IAC 10. That does not mean that the facility is not allowed to accept other waste, however, under 329 IAC 11-13.5, transfer stations must comply with the additional requirements if the facility is accepting municipal solid waste and thus the need for this definition. In addition, since other rule language and permitting requirements can address incidental amounts of excluded materials in a waste stream, language addressing incidental components of certain excluded wastes in MSW is not needed. No change was made.

Comment: Proposed 329 IAC 11-9-1 (Permit Requirement) The proposed language in Sec.1(c)(3) and (4) is overly broad. While it understandable that the Department may wish to restrict permit approvals for facilities with records of environmental non-compliance, consideration should be given to limiting such restrictions to instances of significant or repeat non-compliance (as opposed to administrative or de minimis non-compliance). (Walsh)

Response: This is functionally consistent with 329 IAC 10-11-1(c).

Comment: Proposed 329 IAC 11-13.5-6 (Operational Requirements) Proposed Sec. 6(a)(1) may present health and safety challenges at permitted waste-to-energy facilities. This proposed provision requires that a solid waste processing facility have an enclosed building with a lockable door. At waste-to-energy facilities, the building containing the tipping floor has roll-up doors and ingress/egress doors at strategic locations. These doors serve, in part, as emergency escape doors. Recommend that this item be revised as follows: AAn enclosed building, with solid walls and a lockable door (as permitted by applicable OSHA requirements) except as specified in subsection (h).@ (Walsh)

Response: IDEM agrees and will delete the word “lockable”. A change has been made.

Comment: Proposed 329 IAC 11-13.5-6 (Operational Requirements) Proposed Sec. 6(a)(2) requires the use of floor drains or a liquid removal system. Waste-to-energy facilities are typically designed without floor drains. Excess moisture that collects on the tipping floor is managed with the accumulated solid waste. This method of managing excess moisture has been proven effective. Recommend that this item be revised as follows: AA hard surface floor, such as concrete or asphalt, equipped with floor drains, a liquid removal system or an equivalent method that is protective of the environment.@ (Walsh)

Response: IDEM agrees and will change this to “A hard surface, such as concrete or asphalt, equipped with floor drains or liquid removal system or other equivalent method to manage liquids accumulating on the floor.”

Comment: Proposed 329 IAC 11-13.5-6 (Operational Requirements) Please clarify whether the proposed language in Sec. 6(a)(3) would apply to tipping floors associated with waste-to-energy facilities. Tipping floors, which are located indoors, are designed to contain solid waste and any

associated spills prior to placement of solid waste in the refuse pit. The addition of curbs or aprons to existing tipping floors has the potential to interfere with the proper and efficient operation of the floor. Recommend that this item be revised as follows: A waste storage areas equipped with spill prevention mechanisms, such as curbs, aprons, or spill prevention kits.@ (Walsh)

Response: IDEM agrees and the change has been made.

Comment: Proposed 329 IAC 11-13.5-9 (Records and Reports) Proposed Sec.9(a)(2) would require that facilities maintain and have available all test results from testing of residues generated by the facility. On occasion, a facility may collect and analyze samples of facility waste streams that are not required by any permit, approval or regulatory requirement. The purpose of this activity may be to track facility production parameters, resource usage or provide supplemental environmental monitoring. Although not required, such activities assist a facility in ensuring proper operation. Maintaining these records for potential review/inspection can be burdensome without a demonstrated environmental benefit. Recommend that this item be revised as follows: A All test results from required testing of residues generated by the facility@. (Walsh)

Response: IDEM doesn't "require" the test for residues; the testing is dependent on disposal methods. No change was made.